

1 UNI TED STATES DI STRI CT COURT
2 EASTERN DI STRI CT OF NEW YORK

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4 UNI TED STATES OF AMERI CA, : 12 CR 00350 (I LG)
5 v. : U. S. Courthouse
6 PETER LI OUNI S, et al . , : Brooklyn, New York
7 Defendants. : January 23, 2014
8 : 11: 30 o' clock a. m.
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10 TRANSCRIPT OF PRETRIAL CONFERENCE
11 BEFORE THE HONORABLE I. LEO GLASSER
12 UNI TED STATES DI STRI CT JUDGE.

13 APPEARANCES:

14 For the Government:

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18 Proceedings recorded by mechan i cal stenography, transcript
19 produced by CAT.

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1 (Case called; both sides ready.)

2 MR. LERER: Justin Lerer and Michael Yaeger for the
3 United States. Good morning, your Honor.

4 THE COURT: Good morning.

5 MR. GOLD: For the defendant as standby counsel,
6 Michael Gold. Good morning, your Honor.

7 MR. LIOUNIS: Good morning. Peter Liounis.

8 THE COURT: Good morning, Mr. Liounis.

9 We have a number of things to address. Why don't we
10 deal with those in limine motions first that the government
11 has made.

12 Are you ready to proceed, Mr. Liounis? Are you?

13 MR. LIOUNIS: Yes. I'm just confused as to what
14 we're talking about right now.

15 THE COURT: The government has made some motions in
16 limine that you told me that you wanted some time to respond
17 to and I gave you time to respond to, and that's what I'm
18 going to address now, the government's motions in limine. I
19 think there were five of them.

20 MR. LIOUNIS: I was confused. I thought you said
21 they didn't have it. Did they have or do they have it?

22 THE COURT: The first motion in limine that the
23 government made were to preclude cross-examination of Special
24 Agent John Szwalek and Special Agent Brian Parkhill.

25 I granted those motions on the record at a prior

1 conference, but I'll address them again. Insofar as the
2 government's motion to preclude cross-examination, that a
3 complaint was made about Special Agent Szwalek, that motion is
4 essentially moot, because if one examined the docket sheet
5 that the government referenced, one would find that the motion
6 is moot, because the complaint against the agent was
7 withdrawn. So, in the action against the government, the
8 Department of Homeland Security and Agent Szwalek, the
9 complaint was -- initially filed was subsequently modified,
10 and the complaint against Special Agent Szwalek was withdrawn.
11 So, the motion to preclude cross-examination of him with
12 respect to that is granted.

13 And insofar as the complaint against Special Agent
14 Brian Parkhill is concerned, that motion is granted, as well.

15 To begin with, it's rather ambiguous as to whether
16 Special Agent Parkhill is even the person against whom the
17 complaint was made. The complaint is made against somebody by
18 the name of Parker, although Special Agent Parkhill was
19 involved very preliminarily in connection with the seizure of
20 a passport and other documents incident to the arrest of the
21 person who alleged the complaint. The complaint has been
22 dismissed administratively, and an action was subsequently
23 filed in the Southern District of Florida, which is still
24 pending.

25 In any event, the contemplated evidence has no

1 relevance at all to any issue in this case. The credibility
2 of a witness shouldn't be capable of being impugned by a
3 complaint which is completely unsupported, prejudicial,
4 designed to show confusion and waste time. The authority with
5 respect to the admissibility of complaints or arrests is quite
6 enormous. The case cited most frequently is the case of
7 Berkovich vs. Hicks, decided back in 1991 in the circuit. So,
8 the motion to preclude cross-examination of Special Agent
9 Parkhill with respect to any complaint that was made about him
10 is granted.

11 Telephone calls recorded by a gentleman named
12 Moldrem, Mr. Liounis has submitted a rather extensive
13 statement as to why testimony of Mr. Moldrem should not be
14 admissible.

15 I don't know whether you want to add anything to
16 what you have written, Mr. Liounis. You submitted a rather
17 extensive objection to the government's intention to call
18 Mr. Moldrem. Mr. Moldrem's testimony will be simply for the
19 purpose of voice identification, to identify telephone calls
20 to which he was a party and which were recorded in which the
21 caller identified himself in various ways, and it's the
22 government's intention to attempt to prove the case against
23 Mr. Liounis by establishing that it is his voice on those
24 recordings, and his voice claiming to be Mark Anderson.

25 The basis upon which those recordings are sought to

1 be received is quite clearly Rule 404(b) of the Federal Rules
2 of Evidence, that permit evidence of bad acts to prove
3 identity, in addition to which, 404(b) might arguably be
4 applicable for just about everything.

5 404(b) makes such evidence admissible, evidence to
6 establish a plan, common scheme or plan, evidence to establish
7 motive, evidence to establish the absence of mistake. I'm
8 going to permit that evidence to be received, and give the
9 jury very, very specific limiting instructions as to the
10 purpose for which that evidence is being received.

11 It's not being received at all for the purpose of
12 establishing the truth or validity of the contents of any of
13 those phone calls. And to the extent those phone calls can be
14 redacted in some way so that the significant purpose for which
15 they are sought to be admitted -- namely, the identification
16 of voice -- will serve its purpose and, based upon the
17 submission of the government thus far, that evidence is quite
18 probative, it's significant. And if not, the only issue in
19 this case, as far as I can tell, is the issue of voice
20 identification, and simply, that evidence is quite probative
21 and its probative value making the balancing test that I am
22 required to make under 403 and 404, I balance those
23 considerations and will receive testimony from Mr. Molarem.

24 MR. LIOUNIS: Your Honor, before we move on, may I
25 say something on the Molarem calls?

1 THE COURT: Sure.

2 MR. LIOUNIS: If I'm not mistaken, I'm in this
3 courtroom for a company called Grayson Hewitt.

4 THE COURT: That's correct.

5 MR. LIOUNIS: That was sometime, I believe, at the
6 end of 2010, 2011.

7 THE COURT: That's correct.

8 MR. LIOUNIS: Okay. I have not seen any evidence of
9 Mr. Molarem being any kind of client, any kind of victim, any
10 kind of nexus to the crimes that are charged in this
11 courtroom, and I feel he should be precluded from testifying,
12 because he's going to confuse the jury, and he has nothing to
13 do with this case at all.

14 Maybe I'm not saying it correctly. I'm hoping you
15 understand what I am trying to say, but he has nothing to do
16 with this case at all. The government amended the indictment.
17 They dismissed two schemes. I believe Mr. Molarem, based on
18 discovery, is part of those dismissed schemes.

19 So, again, I wonder why Mr. Molarem will be
20 testifying at a trial for Grayson Hewitt Funding that has
21 nothing to do with them. That will be very prejudicial to the
22 defendant and have no probative value whatsoever.

23 THE COURT: Does the government want to respond in
24 any way at all?

25 MR. YAEGER: I don't think it's necessary, your

1 Honor. I believe we have addressed these issues in our
2 pleadings.

3 THE COURT: Mr. Liounis, two things: First, I
4 understand the point that you are making very well. You made
5 that point very well in the submission that you handed up last
6 week.

7 The testimony of Mr. Moldrem will be received solely
8 for the purpose of identifying the voice. It's not being
9 received for the purpose of proving that you're a bad man.

10 It might also be received for the purpose of
11 establishing that your alleged involvement in Grayson Hewitt
12 was part of a scheme and plan which you have been engaged in
13 for some time, at least insofar as your conviction in the
14 Southern District is concerned. It indicates that you have
15 been involved in schemes such as the one with which you are
16 charged here, and the testimony that Mr. Moldrem is being
17 sought to be presented is being presented for the purpose of
18 establishing that the person who claimed to be black, three or
19 four other persons, and also claimed to be Mark Anderson, is
20 one and the same person.

21 It's primarily voice identification. Identity,
22 primarily, also -- maybe not primarily -- but also to
23 establish the fact that the Grayson Hewitt event with which
24 you are charged was part of a grand scheme and plan in which
25 you were involved over a period of years.

1 And so, the point that you were making this morning
2 was made very effectively, and I gave it very careful
3 consideration in the submission you present last week.

4 With respect to --

5 MR. LIOUNIS: Your Honor, one more thing on
6 Mr. Moldrem that's very important to add to what you just
7 said: Will that be based on his personal experience? Will
8 that be based on personal recordings? What will that be based
9 on as far as his, you know, as far as Mr. Moldrem making this
10 testimony?

11 Will Mr. Moldrem be talking about schemes that I am
12 not charged with? Will they be presenting tapes that have
13 nothing to do with this case? I'm a little confused as to
14 which direction the government is going to go with this and
15 how this is in any way probative. This is all prejudicial.
16 What's the direction?

17 THE COURT: I thought I just explained what I
18 believed the justification for that evidence is.

19 But I'm going to ask the government to tell you
20 again or to tell me, as well as you, why it is that they are
21 offering that evidence. They have told me that quite clearly
22 in their motion in limine. I'll hear it again.

23 MR. YAEGER: Thank you, your Honor.

24 I don't believe I can improve on the Court's
25 summary.

1 THE COURT: I'm sorry?

2 MR. YAEGER: I don't believe I can improve on the
3 Court's summary.

4 THE COURT: Why don't you try.

5 MR. YAEGER: I certainly will.

6 This is about the identity of the defendant and a
7 common plan or scheme, a method of using fake names over the
8 phone to solicit money in connection with securities frauds,
9 and Mr. Mol drem was called repeatedly by the defendant using
10 different names in different schemes.

11 He then recorded the defendant, and has those tapes,
12 and we will be playing short selections of those recordings
13 for the purpose of playing the voice that is on those tapes,
14 and that shows a common method, and it shows the identity of
15 the defendant, is more proof of his voice and his way of
16 operating over the phone, which also tends to show his
17 identity.

18 THE COURT: With respect to the phone calls from the
19 MDC --

20 MR. LI OUNI S: Those tapes, your Honor, those are
21 illegally obtained tapes. I wrote that --

22 THE COURT: Talking about the MDC?

23 MR. LI OUNI S: I'm talking about the Mol drem tapes
24 that are recorded from Mr. Mol drem in California. Those are
25 unawfully recorded tapes. There's nothing on those tapes

1 that shows that they are consensually recorded by anybody or
2 told anything.

3 THE COURT: They are consensually recorded by
4 Mr. Molarem, who is the party to that telephone call.

5 MR. LIOUNIS: In California, you need consent from
6 the person that you are recording, and I'm pretty -- I've
7 checked on that, and there's nothing on any of those tapes
8 where whoever he's taping he's letting him know that they are
9 being recorded.

10 THE COURT: Mr. Liounis, I don't believe that you
11 made a motion to suppress those telephone calls in the past.
12 I don't think so. I know you made a motion to suppress a
13 whole variety of things, but I don't recall this being one of
14 them. In any event, assuming that you are making that motion
15 now, I'm denying it.

16 With respect to the MDC calls, although the
17 government cited no authority at all, the leading -- I don't
18 know whether it's leading anymore -- but a case which
19 addresses all of the objections that you wrote with respect to
20 the MDC telephone calls are addressed in a case which was
21 decided by the Second Circuit not terribly long ago, and the
22 case is United States vs. Mejia. I'll give you the citation
23 in a minute. You'll find it in 655 Fd. 3 on page 126. It was
24 decided by the Second Circuit on the 25th of August 2011,
25 which addresses the objections that you have taken to the MDC

1 telephone calls. I'll allow them.

2 The other motion that the government has made deals
3 with the eventuality that you are going to be testifying on
4 your own behalf, and the government's motion was to permit you
5 to be cross-examined with respect to your felony conviction in
6 the Southern District, and Rule 609(a) specifically permits
7 that.

8 And the government is also seeking permission to
9 cross-examine you on that bank fraud, although that was just a
10 misdemeanor, and that was sought to be received pursuant to
11 Rule 609(a)(2), which permits conviction of any crime, whether
12 it be a misdemeanor or a felony, if it was a crime involving
13 dishonesty or fraud.

14 And that crime which you were convicted of,
15 involving bank fraud, satisfies the prerequisites of
16 609(a)(2). Those crimes were, I think, less than ten years
17 since you've been released from prison on the Southern
18 District conviction. You were released in 2007, were you,
19 from the Southern District crime, about 2007?

20 MR. LIOUNIS: Released from McKean.

21 THE COURT: From prison.

22 MR. LIOUNIS: 2008, wasn't it?

23 THE COURT: In any event, it was less than ten years
24 from the time the government seeks to introduce that evidence.

25 I don't think there was anything else in those

1 motions in limine, except there have been some other motions,
2 which the government has just made. I guess you received
3 copies of them, Mr. Liounis. Before I deal with that, I'll
4 give you an opportunity to address them.

5 MR. LIOUNIS: Are you finished with the motion in
6 limine?

7 THE COURT: I think so.

8 MR. LIOUNIS: There were some other issues on there.

9 THE COURT: Which ones were they?

10 MR. YAEGER: There was a forfeiture motion.

11 THE COURT: That's not a motion in limine, I don't
12 think.

13 MR. YAEGER: It was simply that there was no need to
14 do forfeiture before the jury. That's all the government was
15 saying.

16 THE COURT: What else? I don't think there was
17 anything else by way of a motion in limine --

18 MR. YAEGER: No, your Honor.

19 THE COURT: -- except there is now. You've just
20 filed a motion --

21 MR. YAEGER: Yes, your Honor.

22 THE COURT: -- seeking to introduce evidence
23 pursuant to Rule 807 of the Federal Rules of Evidence.

24 I don't know whether you have received it.

25 MR. LIOUNIS: This?

1 MR. GOLD: That is the stack with the tabs. That
2 one.

3 THE COURT: They are, in effect -- they are wire
4 transfers, bank records of wire transfers which are sought to
5 be received under Rule 807. The prerequisites of Rule 807
6 appears to be satisfied.

7 There is authority for the proposition that money
8 orders and checks are receivable. They don't counter the
9 hearsay rule, violate the hearsay rule. These documents are
10 not being received for the purpose of their content, just
11 received for the purpose that they were made. I'll give you
12 an opportunity, if you want, to respond to that, although I
13 know you have not had a chance to do it yet. If you can, do
14 it on Monday before we start trial motions.

15 The other motion that the government has made is a
16 motion to preclude any alibi defense you may have contemplated
17 making. You never indicated what alibi you may be offering,
18 as near as I can tell. I'm going to grant the government's
19 motion to preclude.

20 MR. LIOUNIS: Your Honor, excuse me. On the
21 preclusion, you gave me time to put it in, and then I came to
22 court and I had told you that I was in court, which you gave
23 me five days to put the alibi defense in.

24 If you check MDC, I put something in the mail to the
25 Court, and I brought one with me today to personally hand in,

1 and that alibi defense is very, very important as far as my
2 case. It doesn't make sense that you are not going to allow
3 that when you gave me permission to put that in.

4 THE COURT: First of all, Mr. Liounis, the fact that
5 it doesn't make any sense, I think I told you, when you agreed
6 that you wanted to proceed pro se, that you are going to be
7 held responsible to comply with all the Rules. A request of
8 you to provide information of an alibi defense was made months
9 ago, and that should have been provided fourteen days or so
10 after it was asked of you. So, the fact that it doesn't make
11 any sense, Mr. Liounis, it may be that I'm bending over very,
12 very backward in giving you the leeway that I am giving you.
13 Do you understand that? Hand it up.

14 MR. LIOUNIS: Thank you.

15 THE COURT: And give the government a copy of it.

16 MR. LIOUNIS: Thank you, your Honor.

17 THE COURT: With respect to the motion to preclude
18 an expert with respect to cell sites, you have not provided
19 what it is that the Federal Rules of Criminal Procedure
20 requires with respect to that, and I'm going to preclude any
21 expert evidence with respect to cell sites. Now, as far as
22 the Rule 807 evidence is concerned, I told you I'm going to
23 give you until Monday morning.

24 Now, let me deal with Mr. Liounis's submissions. I
25 don't know whether a letter that you wrote, again complaining

1 about -- I guess "complaining" is an accurate word -- about
2 having been deprived of your right to counsel, I don't know
3 whether I should interpret that, Mr. Liounis, as a request
4 that you're making now for the appointment of counsel. I
5 don't know whether you are or you aren't.

6 MR. LIOUNIS: If I may answer?

7 Your Honor, I don't want to go backwards and create
8 any kind of aggravation. What happened here is, bottom line,
9 it's in my best interest to have an attorney for a trial.
10 Okay. I'm sure everybody agrees on that. Okay. And what has
11 happened here is, I was clearly -- again, I was not given a
12 choice. It was either stay with Ms. Sharkey or not.
13 Ms. Sharkey and I just couldn't be in the same room anymore.

14 THE COURT: Excuse me.

15 MR. LIOUNIS: I don't --

16 THE COURT: I don't want to go through that again.
17 I've been through that with you at least twice.

18 MR. LIOUNIS: So, the answer to your question is --

19 THE COURT: Excuse me. I've been through that with
20 you at least twice, and I've read the transcripts to you here
21 in open court twice on that issue. I don't want to review
22 that again.

23 Now, the question that I am asking you is: Are you
24 requesting again to withdraw your waiver of counsel, and are
25 you making a request of me now to have counsel appointed to

1 represent you at your trial?

2 I want you to understand a number of things. First,
3 whether I will or will not, or should or shouldn't, grant that
4 request if you're making it is discretionary with me.

5 Second, if I grant your request and do appoint
6 counsel to represent you at trial, you will not be permitted
7 to act as cocounsel. You will not be permitted to participate
8 in any way in the capacity as counsel at that trial. Hybrid
9 representation, meaning representation pro se and with
10 counsel, is not looked upon with any degree of favor. So, I
11 want you to understand that.

12 If I grant your request and do appoint counsel to
13 represent you, you will not be permitted to be acting on your
14 own behalf as counsel, and, second, the counsel that I appoint
15 to represent you will be the counsel that I appoint. I think
16 I told you on some prior occasion that you don't have a right
17 to choose who it is that should be representing you if counsel
18 is to be appointed.

19 So, the question that I am putting to you,
20 Mr. Liounis, very directly, is: Are you now withdrawing your
21 waiver of counsel, and are you requesting the Court to appoint
22 counsel to represent you at trial?

23 One third thing I should tell you. I think I
24 indicated that the last time you were here: If I grant that
25 request, there will not be a continuance of the trial. The

1 trial will go forward on Monday morning.

2 MR. LIOUNIS: I'm confused on the last part. I'm
3 sorry.

4 THE COURT: If I grant your request to appoint
5 counsel to represent you, there will not be a continuance.
6 The trial will not be put off beyond the 27th of January,
7 which is Monday, at 10:00 o'clock. I think I indicated that
8 to you or indicated that in court the last time you were here.

9 So, let's deal with that first. Are you asking me
10 to permit you to withdraw your request to proceed pro se, and
11 are you asking me to appoint counsel to represent you?

12 MR. GOLD: Your Honor, he has some questions of me.
13 May I have a moment?

14 THE COURT: Yes.

15 (Pause.)

16 MR. LIOUNIS: Your Honor, I spoke to Mr. Gold. I
17 just want to put on the record that my family and friends have
18 retained an attorney for me to do trial. However, the
19 attorney came to see me -- excuse me -- the attorney came to
20 see me on Friday at MDC Brooklyn. The attorney was paid, due
21 to donations from family and friends, who I have asked for
22 help, because I have been unable to get a lawyer from this
23 court, and she was willing to come on and take this case.

24 Unfortunately, there was only a week for her to
25 prepare for the trial, and that was a very big problem. She

1 had contacted Mr. Gold for the details. Mr. Gold had
2 explained that the Court is not granting any kind of
3 continuance, and I would like to put it on the record that the
4 attorney that my family hired to represent me I have a lot of
5 confidence in and faith in, which I would of course allow her
6 to do what she has to do to represent me and, you know, not be
7 involved in any way, shape or form, unless asked to be
8 involved.

9 I'm being left no choice -- it sounds as if I'm
10 going to trial Monday, regardless of what I choose. Again, I
11 would feel much better and I think it's in my best interest to
12 have an attorney, and the attorney I would like is the one
13 that my family retained and feels comfortable with and I feel
14 comfortable with to represent in this complex case.

15 I don't know what else to really say. I don't want
16 to do this prose at this point, absolutely not. But at the
17 same time, if you appoint an attorney tomorrow, I don't know
18 how good they are going to do for me.

19 If we start trial on Monday, either way, and I feel
20 that whoever the attorney is that's going to take this case --
21 again, it was deemed a complex case -- they are going to need
22 time to prepare, question witnesses, exhibits, I have CD's.
23 These are things that need to be done prior to trial.

24 And I'm answering the question. I don't want to do
25 this on my own. I don't feel I can do this on my own. This

1 has been nothing but overwhelming. And yes, I want a lawyer,
2 but I want the lawyer that my family and friends looked into
3 and checked and they are comfortable with and I'm comfortable
4 with, and she is retained, and if this Court will give even a
5 small continuance --

6 THE COURT: Mr. Liounis.

7 MR. LIOUNIS: -- I'm not talking about a big
8 continuance, she will come into the case.

9 THE COURT: Excuse me. There will not be a
10 continuance of this trial. If you wish to have your own
11 lawyer or the lawyer your family retained for you to appear,
12 have that lawyer file a notice of appearance and be prepared
13 to be here on Monday morning to represent you.

14 Is there anything further?

15 MR. LIOUNIS: I don't know what to say, your Honor.

16 THE COURT: Well, what you can say, Mr. Liounis --

17 MR. LIOUNIS: I don't know what to say.

18 THE COURT: What you can say, Mr. Liounis, is that
19 you wish to have your family's lawyer appear for you. You may
20 perfectly have that done. Have that lawyer file a notice of
21 appearance, and that lawyer should be informed that this trial
22 will not be continued beyond Monday. It is now Thursday, the
23 23rd of January, and the trial date is the 27th. It's rather
24 late in the day to determine that you don't want to proceed
25 pro se, and this trial is going forward on Monday morning.

1 Now, if you wish to have an attorney appointed for
2 you by the Court, you will be required to file an affidavit of
3 indigency, an affidavit which will say under oath that you
4 cannot afford to hire your own lawyer, and if such an
5 affidavit of indigency is presented, I'll appoint a lawyer to
6 represent you.

7 Now, you'll have to make up your mind as to whether
8 the lawyer that your family has obtained for you will be
9 prepared to represent you on Monday morning, or if she isn't
10 and you are indigent and can't afford to hire a lawyer on your
11 own, I'll appoint a lawyer to represent you. And I'll tell
12 you that the lawyer that I will appoint to represent you is
13 Mr. Gold, because Mr. Gold has been intimately involved since
14 I appointed him as standby counsel, and is fully prepared, I
15 should think, with what the facts in this case are to
16 represent you effectively on Monday morning.

17 Now, make up your mind. If you can't make up your
18 mind this morning, you can make up your mind this afternoon,
19 but I want an answer to that question no later than
20 1:00 o'clock this afternoon. Is that clear?

21 MR. LIOUNIS: That's going to be impossible, because
22 I might not be back at MDC until 8:30, 9:00 o'clock tonight,
23 depending on the marshals, your Honor.

24 THE COURT: Mr. Liounis, what we have now is simply
25 this: I, at this point, don't know whether you are requesting

1 to withdraw your pro se status and asking me to appoint a
2 lawyer to represent you, or whether you're going to have your
3 retained lawyer to represent you. And if you're going to make
4 a request to be represented by counsel by a court-appointed
5 lawyer, I tell you now that whether I will grant that request
6 or not is discretionary. This Court will not be manipulated
7 three days before trial. Is that clear?

8 Now, there are other things which you have presented
9 to the Court in a lengthy submission. You said something
10 about separation. You want something sealed. Now, there was
11 nothing indicated on the record in court as to what that
12 separation was all about. It wasn't a matter of concern for
13 me as to what the separation was all about.

14 I received a letter from the government, I think the
15 very next day or maybe later the same day, telling me that
16 they have directed the MDC to vacate or disregard or terminate
17 whatever separation order there was. I don't know what your
18 letter was all about.

19 MR. LERER: Your Honor, if I could bring the Court
20 up to date? A lot has transpired in efforts to deal with this
21 situation. I'll just say in summary, the defendant refuses to
22 comply with the MDC's solutions to solve the issue of the
23 separation. I'll speak to this very briefly.

24 A while back, the government -- the government can
25 only request a separation. It's the MDC's decision.

1 MR. LIOUNIS: Your Honor, this is the point.

2 MR. LERER: I believe it's my turn.

3 THE COURT: Excuse me.

4 MR. LIOUNIS: This is the point I'm making.

5 THE COURT: Excuse me.

6 MR. LIOUNIS: This is what happened last time.

7 THE COURT: I said "Excuse me." I'll give you an
8 opportunity to respond in due time.

9 MR. LIOUNIS: I don't want this stuff -- why is this
10 being said? You know what you are doing. What are you doing?
11 He knows what he's doing. He's being malicious right now.

12 MR. LERER: I don't know what the defendant is
13 talking about. There was a separation between the defendant
14 and another inmate.

15 The government -- the way it works at the MDC, there
16 is a legal -visit room, and there's a uniform rule if it opens
17 at 8:00 a.m., whoever gets there first, if there's a separate,
18 gets to use the legal -visit room.

19 Mr. Liounis has never -- I shouldn't say "never" --
20 Mr. Liounis typically does not get there first, does not have
21 his people come there early, not his lawyer or his
22 investigator gets there early.

23 The government and the MDC didn't rest on that. The
24 government requested that the separation be lifted. The
25 defendant, through Mr. Gold, vociferously argued that the

1 separation be returned, so that he continued to be separated
2 from this other individual.

3 I then spoke to the general counsel's office for the
4 MDC about another solution, and the solution that was reached,
5 the MDC's idea, was that the separation would remain, but
6 Mr. Liounis would be moved to the other wing of the prison,
7 because there is a separate visit room in the other wing.

8 The MDC went to move Mr. Liounis to the other wing,
9 so he could have unfettered access to the other room, the
10 other visit room. Mr. Liounis refused to move to the other
11 wing, and since then, Mr. Liounis has requested that instead,
12 the other inmate be moved, and has alternately requested
13 that the separation be dropped entirely.

14 I communicated with the MDC, and it was their
15 position that they had done all they could, and that on the
16 facts currently with the inmate actually having requested the
17 separation and taken it back and forth, that they are not
18 confident in security that they wish to continue a separation,
19 that they have given the defendant the opportunity to move to
20 the other wing and he has refused, and at this point, the MDC
21 states that the room is available starting at 8:00 a.m., and
22 if he wishes to meet with people, he should have them arrive
23 at 8:00 a.m.. the MDC general counsel is also available to
24 get on the phone if the Court wants.

25 THE COURT: As I understand what you are saying,

1 it's the MDC's view that from their point of view, in terms of
2 their concern with security, they believe separation is
3 important?

4 MR. LERER: Yes, sir.

5 THE COURT: I do not run penal institutions. I do
6 not run prisons. I don't second-guess wardens. If as a
7 matter of the security, they believe a separation is in order,
8 I'm not going to interfere with it.

9 MR. LERER: I would ask that the one sentence --

10 MR. LIOUNIS: I don't know what he's talking about.
11 I don't know what he's talking about.

12 MR. LERER: All reference to --

13 MR. LIOUNIS: I don't know what he's talking about.
14 I don't know what he's talking about. It's not right what
15 he's doing. I want that off the record. I'm asking that to
16 be stricken off the record, everything he mentioned that
17 starts with that word stricken off that record.

18 And I have to, also, your Honor, I should be given
19 an opportunity to answer that. Okay.

20 The reason I refused to move from one side to the
21 other is due to a medical reason that the institution knows.
22 I'm allergic to the mattresses that are in the dorms, and I
23 have special mattresses in my room for that reason.

24 More importantly -- I'm just answering what he just
25 said, it's very important -- on the separation, it was lifted

1 by the government. I never insisted they put it back. I
2 e-mailed Michael Gold, saying, Keep it off, keep it off, take
3 it off, because this is ridiculous. I can't get a legal
4 visit. I can't get a legal visit. I did not insist on
5 keeping them on. The letter I wrote to you had to do with
6 exactly what he's doing again in court on the record, speaking
7 recklessly on the record and creating a situation that
8 shouldn't be. This needs to be lifted. I want the
9 separations lifted. It's preventing me from getting legal
10 visits for defending my case. I'm telling you, it's not a
11 problem. MDC is leaving it there because of what he just
12 said.

13 THE COURT: With respect to whether there will or
14 will not be a separation is a matter that the Bureau of
15 Prisons believes in their judgment and their expertise should
16 be maintained, and I'm not going to interfere with that.

17 MR. GOLD: Your Honor, if I may, briefly?

18 THE COURT: Yes.

19 MR. GOLD: I'm not going to belabor the record with
20 how everything happened, but suffice it to say when I
21 requested the Bureau of Prisons lift the separation order, I
22 received an e-mail from them yesterday that if the government
23 is writing requests that the separation be lifted, they will
24 lift it. That's what this e-mail to me was. I don't know
25 whether that is before or after Mr. Lerer's conversations with

1 them, but as of yesterday, that is what -- yesterday
2 afternoon, that's what they informed me.

3 MR. LIOUNIS: I'm willing to lift it. I'm here.
4 I'm telling you.

5 MR. GOLD: It's Mr. Liounis's request that the
6 government in fact send something in writing to the Bureau of
7 Prisons, MDC, to lift the separation order.

8 MR. LIOUNIS: Obviously, I'm not insisting. I'm
9 asking to lift them. I'm not insisting to keep them on, as he
10 just said. I'm asking to lift them. So, please comply.

11 THE COURT: My understanding is, I think I received
12 a letter from Mr. Lerer informing me that they requested the
13 separation to be terminated. Didn't you write me such a
14 letter, Mr. Lerer?

15 MR. LERER: I did.

16 THE COURT: What's this all about now? There seems
17 to be some confusion. What you are telling me is completely
18 different than what I am hearing from Mr. Gold. Mr. Gold
19 says, if I understood him -- excuse me.

20 MR. LERER: Sorry, your Honor. Your Honor, would
21 you like me to attempt to clarify?

22 THE COURT: Excuse me.

23 MR. LERER: Sorry.

24 THE COURT: You told me a minute ago that it's the
25 Bureau of Prisons's position that separation is required for

1 purposes of security, in their view.

2 Mr. Gold tells me that he received an e-mail from
3 the Bureau of Prisons indicating that they would lift the
4 separation if the government wrote a letter saying separation
5 is not, in their view, required. You wrote a letter to me,
6 didn't you, telling me that you no longer are requesting
7 separation? Didn't you?

8 MR. LERER: Yes, your Honor.

9 THE COURT: All right. So, why should there be a
10 need for another letter?

11 MR. GOLD: If I may, your Honor?

12 When Mr. Lerer wrote that letter to the Bureau of
13 Prisons last week, subsequent to that letter, I did object to
14 the lifting of the separation.

15 THE COURT: I see.

16 MR. GOLD: Then Mr. Liounis communicated to me he in
17 fact wanted it lifted. I went back to the BOP and Mr. Lerer,
18 and that's where we are now.

19 THE COURT: Well, this is a matter for the Bureau of
20 Prisons and you people to deal with. I don't think it
21 requires any order by me. So, you write a letter, and the
22 Bureau of Prisons has no problem. I suppose that takes care
23 of that.

24 MR. LIOUNIS: Your Honor, were you instructing the
25 government to write a letter to remove that? It's very

1 important as to my defense. This separation has stopped me
2 from getting legal visits. It's stopped me from getting my
3 investigator. I have not even seen an investigator in five
4 months. I mean, it really has. I want to make sure that this
5 gets lifted, especially now during trial.

6 THE COURT: Mr. Lerer, as near as I can tell, the
7 Bureau of Prisons is requesting a letter from you if they will
8 lift the separation?

9 MR. LERER: Your Honor, I don't believe that's
10 accurate. Right before I walked into the courtroom a few
11 minutes -- maybe an hour ago, I spoke to the general counsel's
12 office, and they said that at this point, it is their request,
13 not ours. However, I will communicate to the Bureau of
14 Prisons that the government is not requesting a separation and
15 that it's in their discretion. I will communicate that. It
16 is not my understanding that they will remove the separation,
17 based on the government's opinion.

18 THE COURT: Apparently, they want it in writing.

19 MR. GOLD: I will read the e-mail they sent to me,
20 January 22, 3:26 p.m.: "Mr. Gold, I have reviewed all of your
21 e-mails regarding your client. With that said, inmates are
22 separated by the AUSA, and those separations are not removed
23 unless the AUSA provides us with a written request." This was
24 in response to my request that the separation be lifted, and
25 this was sent to me on, as I said, yesterday at 3:26 p.m.

1 THE COURT: Let me see: What else is there before
2 me? I think that's about it, so far as the -- the only thing
3 that's left is Rule 807 that Mr. Liounis hasn't had an
4 opportunity to look at. Did you receive Mr. Liounis's alibi
5 request? Has he given you a copy of that?

6 MR. YAEGER: Yes, your Honor. We have this request.

7 THE COURT: Okay.

8 As far as the cell site expert is concerned, I'm
9 precluding the cell site expert's testimony.

10 One other thing. If Mr. Liounis is going to proceed
11 pro se during the trial on Monday, there will not be an
12 opening statement. There will be no openings. We'll proceed
13 right to calling witnesses. Is that clear? If Mr. Liounis is
14 going to be represented by counsel, of course, counsel can
15 make an opening statement, if he wishes. If Mr. Liounis is
16 going to appear pro se, then there will be no opening
17 statement, either by Mr. Liounis or by the government. We'll
18 proceed directly to the government's case in chief.

19 If there's nothing further, I think these
20 proceedings are concluded.

21 MR. LIOUNIS: Excuse me, your Honor.

22 First and foremost, there was a thing about voir
23 dire questions that I could submit?

24 THE COURT: Yes.

25 MR. LIOUNIS: I've made them. Is it okay if I

1 submit these?

2 THE COURT: Surely.

3 MR. LIOUNIS: Your Honor, more importantly, before
4 we leave this courtroom, again, the explanation of the
5 separation in any way, shape or form, I'm asking that if that
6 could be stricken from the record and from these transcripts?

7 THE COURT: The motion is granted. Okay.

8 MR. LIOUNIS: Your Honor, can we please do the same
9 for the following proceeding -- the previous one, where
10 Mr. Lerer did the same exact thing on the record when
11 explaining the separation. Can we please have that removed
12 from the transcript?

13 THE COURT: I don't know what it is you are
14 referring to. If the transcript would be made available to
15 me, I'll look at it and make a determination.

16 MR. LIOUNIS: It's exactly what was said today,
17 verbatim. When you asked to explain the separation, he
18 explained it in detail on the record. It's the exact same
19 reason you're striking it from the record today, and I'm
20 asking you please to order that it be stricken prior to those
21 transcripts being made public.

22 THE COURT: Mr. Liounis, I'm telling you that I have
23 no specific recollection of having heard, any time prior to
24 just now, that there was a separation or what the reason for
25 it was. If there were such statements made --

1 MR. LIOUNIS: Tell him.

2 THE COURT: If there were such statements made and
3 there's a record which reflects it, I'll look at it if
4 somebody will provide me with the transcript of the statements
5 which you are referring to, but I have no independent
6 recollection at this point of ever having heard any reason for
7 a separation or that there was one. All right.

8 Now, you reminded me, by handing up these voir dire
9 questions, I think one of the things that I talked about the
10 last time we were here, in terms of trial procedure, if
11 Mr. Liounis is going to be proceeding pro se and if
12 Mr. Liounis will testify, as he has a perfect right to do, on
13 his own behalf, should that testimony be in the form of
14 narrative or in the form of questions and answers? And I
15 suggested that it might be useful, if it were doable, to have
16 a list of questions that Mr. Liounis would ask himself on
17 direct examination or, if he were represented by counsel, what
18 he would want counsel to ask on the direct examination, and we
19 could proceed in that fashion. Otherwise, we'll determine how
20 we'll proceed if he does proceed pro se and is going to be
21 testifying on his own behalf.

22 Just let me explain. There seems to be some
23 consternation as to why I am precluding opening statements.

24 To begin with, I'm precluding them because Rule 611
25 of the Federal Rules of Evidence permits me to determine what

1 the order of the trial should be, and, second, for purposes of
2 -- it's a matter of procedure, or legal issues which are
3 interesting, if Mr. Liounis is going to proceed pro se and
4 make an opening statement, should he be making those
5 statements under oath? Should those statements be very
6 carefully tailored to make sure that a lot of irrelevant or
7 material that would not be admissible in evidence would be
8 precluded from an opening statement?

9 You normally tell a jury, in an opening statement,
10 that what they hear in openings are not evidence. It's a
11 rather tricky kind of thing to do if a pro se defendant is
12 going to be making statements on his own behalf. So, there
13 will be no opening statements if Mr. Liounis is appearing pro
14 se at trial.

15 Mr. Liounis, you're going to let me know, and you'd
16 better let me know quickly, I'll give you until about 3:00
17 o'clock this afternoon to let me know whether you want to
18 withdraw your determination to proceed pro se or whether you
19 want counsel to be appointed to represent you.

20 If there's nothing else, I think we are concluded.

21 MR. YAEGER: One very minor thing. I wanted to
22 inform the Court, in addition to having a case agent at the
23 government's table, the government was also intending to have
24 one agent in the back of the room just to bring witnesses in
25 and out. It's possible that agent, he -- we expect that agent

1 in the back of the room will also testify. We believe that
2 the use of these two agents is necessary, in part because they
3 are familiar with the witnesses and keep the pacing of the
4 trial on track.

5 THE COURT: If that agent is going to testify,
6 there's no reason why he should be sitting in the back of the
7 courtroom. You can have the agent who is sitting at counsel
8 table go out and call the next witness who is going to be
9 called to testify. You don't need two agents to do that.
10 That's the kind of thing that happens as a matter of form in
11 virtually every case.

12 Is there anything else that you have in the way of
13 housekeeping?

14 MR. LERER: Yes, your Honor, just housekeeping. I
15 spoke to the marshals --

16 THE COURT: I spoke to the marshals, as well.
17 What else?

18 MR. LERER: Nothing from the government.

19 MR. LIOUNIS: Your Honor, are you going to address
20 my motion in limine --

21 THE COURT: Yes.

22 MR. LIOUNIS: -- the one that I put in?

23 THE COURT: Yes. Let's do that.

24 Mr. Liounis, what you submitted was a rather
25 extensive document, and I'm not sure whether you were making a

1 motion or what it was you were doing with respect to much of
2 this. I thought I addressed most of your motions, or most of
3 what you submitted were in the way of objecting to the
4 government's motions in limine. If there are motions imbedded
5 in here, let me hear them. I'll deal with them.

6 MR. LIOUNIS: The first one has to do with a
7 statement and the involuntariness of the said statement.

8 We've had a hearing on Miranda. However, the
9 involuntariness, as I put in many, many motions to the Court,
10 that this said statement at the time that anything was even
11 said, was during a period where I was sick. I was refused
12 medical attention, and my medications were not taken at that
13 point. In fact, the agents were sent forty-five minutes away
14 each way to get my medications while I was being questioned.
15 I think I made it very, very clear that at that point, I was
16 very sick. I had fell to one knee. I was very sick, and I
17 was not given the proper medical attention. I was not taken
18 to a hospital.

19 And again, the questions I was being asked, I mean,
20 the only attention I was given prior to those questions was a
21 bag of pretzels, cold water, and agents were fanning me, and I
22 don't think that that was proper, and I was not in my right
23 state of mind, and again, it has to do with the
24 involuntariness and coercion.

25 THE COURT: What is your motion?

1 MR. LI OUNI S: That the government cannot bring in
2 this statement for those reasons.

3 THE COURT: That was the subject of a motion to
4 suppress earlier, wasn't it?

5 MR. LI OUNI S: No. It was Miranda. This has to do
6 with involuntariness.

7 THE COURT: That was part of that motion to suppress
8 a long time ago. I think I dealt with that. I think this is
9 a repetition of a motion that was made before, that has
10 already been decided. What other motion do you have that you
11 want to address?

12 MR. LI OUNI S: Your Honor, I'm objecting to -- the
13 government, again, they said that they had dismissed two
14 schemes, the Rockford scheme and the UBS scheme.

15 But on the indictment, okay, there's still names of
16 apparent aliases that are on those schemes. They are not part
17 of the Grayson Hewitt scheme. This also includes dates.

18 I'm focusing on two things. The alias names and the
19 dates of these said schemes are going to cause me massive
20 prejudice as compared to any probative value, because I'm not
21 charged with them. They dismissed them. Yet, the remnants of
22 the conspiracy date is going to 2008. I understand that dates
23 are inclusive and approximate, but we're talking about over
24 almost a two-year if not longer time frame, and that's not
25 very approximate.

1 And the alias names that are related to those said
2 schemes, they are still on the indictment, they are still in
3 the conspiracy date, and I'm asking that they be precluded.

4 THE COURT: I don't have the --

5 MR. LIOUNIS: It's in my motion in Limine part two.

6 THE COURT: I know.

7 Does the government have a response? Does the
8 government know what it is Mr. Liounis is referring to?

9 MR. YAEGER: Yes, your Honor.

10 The names of the aliases in the caption of the
11 indictment are names that were spoken to Mr. Molarem. The
12 name James Weston, the name Andrew black, the name Santo
13 Cri vera. These aliases are just very much related to the
14 testimony regarding identity.

15 Mr. Molarem knew the defendant by those names. He
16 did not know the defendant's name. That's how he can identify
17 what happened to him. It is part of the government's evidence
18 of identity, and that is how we are going to speak to
19 Mr. Molarem and elicit his testimony, by using the names that
20 he knew, and that is why those are in the caption.

21 MR. LIOUNIS: Your Honor, that's going to be very
22 highly prejudicial. I'm not charged. These are uncharged
23 acts. They have been removed by the government. The
24 government removed them on their own, as their motion states,
25 when they amended the indictment. They dropped both schemes.

1 And what they are trying to do now is use Mr.
2 Mol drem to introduce this as relevant conduct, which is very
3 prejudicial to me. I mean, I'm not charged with these crimes.

4 And the fact that the jury is going to see five or
5 six aliases, that's not why I'm in this courtroom, and, as I
6 said, it leads back to Mr. Mol drem and being allowed to
7 testify. This is going to be highly prejudicial. This
8 becomes like a trial of uncharged crimes, which will affect
9 why I'm in this courtroom. I mean, it's got to be removed.

10 THE COURT: Mr. Liounis, I just don't have --

11 MR. LIOUNIS: I have a copy for you, if you would
12 like.

13 THE COURT: Just a minute. I'll deal with that.

14 What else? Is that all the government has to say
15 with respect to that?

16 MR. YAEGER: One more than thing, which is that
17 these aliases are not the kind of prejudicial aliases one sees
18 in violent cases, not Johnny the Snake or any kind of
19 nickname. They are normal, simple names and not inherently
20 prejudicial. That's all I have to add.

21 MR. LIOUNIS: Your Honor, I think they are.

22 THE COURT: Excuse me. What other motions do you
23 have? Is that it?

24 MR. LIOUNIS: I want to just make sure.

25 Yes. I also have these wiretaps, that prior to

1 these wiretaps being introduced into trial, I would like the
2 government to prove that the voice is in fact my voice on
3 those tapes.

4 You're bringing in evidence that -- if it's me,
5 prove that it's me prior to trial. In other words, I'm trying
6 to say, Why would there be evidence introduced into this
7 courtroom that's not Peter Liounis, that has nothing to do
8 with Peter Liounis? That's what I am trying to say, as far as
9 the wiretaps.

10 I mean, the government used an order in '09 for a
11 company in 2011. This is -- it appears what they are doing
12 is, they are using this Mr. Moldrem to in every way, shape and
13 form bring in two schemes that they dismissed into this trial
14 in every single way. They are using it through the wiretap
15 orders. They are using Mr. Moldrem to introduce schemes that
16 they dismissed. They are leaving fraud amounts in the
17 conspiracy of up to \$15 million for companies that they
18 dismissed. This is very prejudicial.

19 This Grayson Hewitt scheme involved one name. The
20 name was Mark Anderson. It involved, I believe, a fraud
21 amount, based on what the government produced, less than three
22 or four million.

23 If you don't change this, there's five aliases,
24 there's three schemes, there's now fifteen million worth of
25 fraud. I mean, this needs to be cleared up prior to trial,

1 your Honor.

2 THE COURT: I've already cleared it up. I have made
3 a ruling with respect to that about an hour and a half ago.
4 Is there anything else?

5 MR. LIOUNIS: I'm asking that it be precluded from
6 the indictment, the conspiracy dates and the aliases be
7 precluded from what they dismissed. That's what I am asking.

8 THE COURT: Anything else?

9 MR. YAEGER: No, your Honor.

10 MR. GOLD: Your Honor, if I may? It's somewhat of
11 an awkward position I'm in at this point. I would just like
12 to refer to the Court's earlier admonition to Mr. Liounis
13 about whether he proceeds pro se or whether he's going to have
14 the appointment of counsel.

15 I appreciate the Court's confidence in my ability to
16 be ready to try this case on Monday. I would note, though,
17 that while I have been involved as standby counsel for the
18 past year or so and have consulted with Mr. Liounis as needed,
19 I think, as the Court is very well aware, he has charted his
20 own course, and I have not been privy and in fact still am not
21 privy to the number of defense witnesses, who they are, why he
22 intended to call them, what the purpose is. I certainly have
23 not prepared cross-examinations or made an evaluation of how
24 to proceed on the thirty to forty government witnesses that
25 we've been told would appear.

1 Again, I appreciate what the Court said, that I am
2 familiar in a general way, obviously more so, perhaps -- not
3 perhaps -- certainly than any other individual who would be
4 coming in at the last moment. But with all due respect, your
5 Honor, it is now Thursday afternoon. It would be beyond my
6 comprehension to be able to say that I could do a competent,
7 professional job under these circumstances by Monday.

8 THE COURT: Mr. Gold, I am deeply appreciative of
9 your remarks. They reflect what has been, I think, your
10 hallmark of professional integrity and competence. But
11 Mr. Liounis has been aware of the problems which appearing pro
12 se would present. He has had a year and a half, at least,
13 within which to withdraw his insistence, constitutionally
14 right insistence, upon proceeding pro se. He elected to
15 withdraw that waiver of counsel on the eve of trial, and he
16 will not get a continuance.

17 I have anticipated the possibility of this
18 occurring. I have had a memorandum prepared some time ago
19 with respect to what the authorities are and what the law
20 would be, where a defendant who has elected to proceed pro se
21 decides, on the eve of trial, that he would like to have
22 counsel appointed to represent him.

23 There are cases which say that that request can be
24 denied. There are cases which are almost uniformly of the
25 view that if the request will be granted, there should be no

1 requirement of a continuity, because the administration of
2 court proceedings, the administration of judicial proceedings,
3 require this trial to go forward on Monday.

4 There have been witnesses who have been -- I've
5 heard before why we put the matter off -- that have to be
6 brought from a variety of places. They have been prepared,
7 required to appear on Monday. The trial will not be
8 continued. I have every confidence, Mr. Gold, if you are
9 appointed to represent Mr. Liounis, he will receive very
10 competent representation. I have no doubt about that.

11 We're adjourned.

12 And Mr. Liounis, I want a response from you
13 promptly.

14 MR. LIOUNIS: May I say two quick things?

15 THE COURT: Don't tell me that you are not going to
16 be able to get back to the MDC until 8:30 or 9:00 o'clock.
17 There are telephones which function.

18 MR. LIOUNIS: Your Honor --

19 THE COURT: Yes.

20 MR. LIOUNIS: -- I have confidence in Mr. Gold, as
21 well. Okay. And I'm going to ask you, if that is okay, I
22 would like to have Mr. Gold represent me at this trial. I'll
23 give you the answer now, rather than later.

24 And I just want to know one thing: Are you going to
25 rule on that motion in limine, since it's the last thing I'll

1 be able to ask, about removing that stuff from the indictment
2 that's prejudicial that's been dismissed?

3 THE COURT: Mr. Liounis, I think I have ruled on
4 that motion when I discussed the Molarem telephone calls.

5 Now, I think I told you that under 404(b), bad
6 acts -- and those would be bad acts -- are admissible for the
7 purpose of establishing identity, for the purpose of
8 establishing a common scheme or a plan, for the purpose of
9 establishing intent, motive. For all the things which 404(b)
10 says, bad acts may be received in evidence.

11 Now, those bad acts which are received in evidence
12 are almost always not bad acts which have anything to do with
13 the crime with which the defendant is charged. They are
14 offered to prove other things. They are offered to prove
15 identity, which is crucial in this case. And the jury is very
16 carefully instructed that that evidence is not being received
17 for the purpose of establishing propensity. All right. Now,
18 I have been through that.

19 As far as aliases are concerned, I don't have those
20 clearly in mind. My view is that aliases -- and I've written
21 on this on I don't know how many cases in the past, most of
22 them dealing with organized crime -- aliases are not
23 objectionable, for the most part, in indictments.

24 Let me look at these. My tentative ruling is, your
25 motion to have them stricken is denied. If I determine,

1 Looking at that indictment carefully, that there may be some
2 basis for excluding them, I will, but my tentative ruling is
3 that they are denied. Okay.

4 MR. LIOUNIS: If that remains that way, your Honor,
5 I'm asking the Court if I can have a pretrial hearing to prove
6 that those alias are in fact me, prior to trial, out of the
7 presence of a jury?

8 THE COURT: The answer is no.

9 Mr. Gold, I'm going to grant Mr. Liounis's request
10 to have counsel appointed, and I would appoint you. And I
11 would be grateful to you, as I would be to any CJA lawyer who
12 undertakes to represent defendants who are indigent and can't
13 afford to represent themselves and it's a sacrifice, financial
14 sacrifice I know lawyers make in proceeding CJA, but you have
15 appeared before me many times and your competence is just
16 beyond question. Mr. Liounis is fortunate to have had you as
17 standby counsel.

18 I want an affidavit of indigency from you. You know
19 what an affidavit is. It's a statement under oath.

20 Anything else?

21 MR. GOLD: Two things, your Honor.

22 I understand that the Court was not intending on
23 sitting Fridays?

24 THE COURT: That's correct.

25 MR. GOLD: May I affirmatively request that we not

1 sit on Fridays?

2 THE COURT: We will not sit on Fridays.

3 MR. GOLD: Thank you, your Honor.

4 The other issue, your Honor, if I could have five
5 minutes before Mr. Liounis is taken downstairs, so he could
6 fill out this affidavit, because otherwise, I'm not going to
7 be able to get it to him downstairs and have him fill it out.

8 THE COURT: Mr. Gold, your request is granted.

9 Thank you very much.

10 MR. GOLD: Thank you, your Honor.

11 MR. YAEGER: Thank you, your Honor.

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